

ONE PARK PLACE  
300 SOUTH STATE STREET  
SYRACUSE, NEW YORK 13202  
T 315.425.2700 • F 315.425.2701

PETER J. BILINSKI  
PARTNER

DIRECT DIAL 315.425.2856  
DIRECT FAX 315.703.7397  
PBILINSKI@HBLAW.COM

January 26, 2011

**Via Electronic Filing**

Mail Stop: Office of Petitions  
Commissioner for Patents  
United States Patent and Trademark Office  
P. O. Box 1450  
Alexandria, VA 22313-1450

Patent Number	7,014,392
Filed	July 10, 2003
Inventor(s)	Carsten Duwe et al.
Confirmation No.	5324
Invention Title:	DEVICE FOR PNEUMATIC OR HYDRAULIC CONVEYING OF DUSTY, POWDERY OR GRANULAR BULK MATERIAL
Attorney Docket Number	1179_014 (3029440 US01)

Sir:

This correspondence is in response to the Notice from the Office of Petitions, mailed on January 18, 2011, regarding Applicants' denied request for acceptance of a fee deficiency submission under 37 CFR §1.28. Applicants herein respond to the Petitions Examiner's request to provide factual evidence that the decision dated February 12, 2010 was never received by Applicants by attaching a copy to this response, of the "mail returned to the USPTO as undeliverable", which was originally accessed by Applicants through the Patent Application Information Retrieval (PAIR) System several months after the decision had been mailed out. The discovery of this Notice was made by Applicants for the first time through this PAIR access. Applicants aver that no other knowledge of the Notice was known prior to this discovery made in the course of a status inquiry conducted in September, 2010.

On September 28, 2010, Applicants subsequently and duly responded to the February 12, 2010 decision based upon Applicants' above knowledge of same, with an explanation for the delay and requesting that the deficiency payment be accepted. On September 30, 2010,

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Applicants filed a Change of Correspondence Address to ensure that the forthcoming response would be sent to the correct address. On November 2, 2010, Applicants filed a Petition to correct the entity status of the application with an itemization of the deficiencies which would be required to correct the status from small to large entity from the date of filing the application.

Applicants checked PAIR on numerous occasions to ensure that the fees would be withdrawn from Applicants' USPTO Deposit Account and after several months, contacted Ms. Diane Goodwyn on January 10, 2011 to inquire the status of the November 2, 2010 Petition. Ms. Goodwyn assured Applicants that the Petition would be referred to the Petitions Examiner for processing and that a decision would be rendered shortly thereafter. Due to the previous history, Applicants continued to check PAIR to monitor the receipt of a response. On January 18, 2011, Applicants noticed that a Decision had been rendered on January 18, 2011 through PAIR in the Transaction History, however, the Decision was not yet available through the PAIR File Wrapper. On January 21, 2011, Applicants were able to access and print out the Decision and noted that in spite of filing an address correction with the USPTO, the address that the Decision was mailed to was still the incorrect address.

Pursuant to applicable sections of 37 CFR §§ 1.27, 1.28 and MPEP §509.03, Applicants again herein respectfully request to make payment of deficiencies owed, as itemized in the table below:

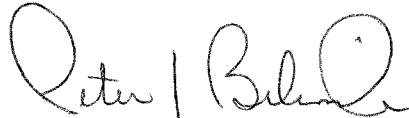
Date	Transaction	Fee Paid	Fee to be Paid at current Large Entity rates	Deficiency Owed
2003-07-10	Filing fee for Small entity status	530.00	1090.00	560.00
2003-07-23	Petition under 37 CFR 1.182 to Convert a National Application which was filed under 35 USC 371 to an Application filed under 35 U.S.C. 111(1)	130.00	400.00	270.00
2005-08-09	Request for Continued Examination	395.00	810.00	415.00
2005-08-09	1 Month Extension of Time	60.00	130.00	70.00
2006-01-09	Issue Fee Payment	700.00	1,510.00	810.00
2009-09-18	Paid Large Entity Maintenance Fee	980.00		0.00
	<b>TOTAL</b>			<b>2125.00</b>

Small entity status was established in good faith, and all previous small entity fees were paid in good faith at the time of filing the application and during patent prosecution. It has now

become evident that such small entity status was established in error and Applicants wish to correct this error through proper payment of deficiencies owed according to the table above.

To that end, Applicants pray petition for payment of fees is now complete, with proper itemization and that all formalities and payments properly correspond. To that end, acceptance of all fee deficiencies and Applicants' explanation in regard to the prior February 12, 2010 paper with corroborative evidence is solicited. The Director is herein also authorized to charge any fee deficiencies or credit any excess payments to our Deposit Account No. 50-3010.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter J. Bilinski", written in a cursive style.

Peter J. Bilinski  
Reg. No. 35,067

PJB/rmb

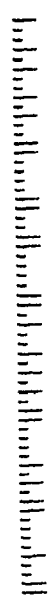
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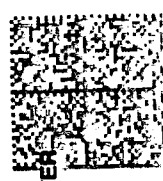
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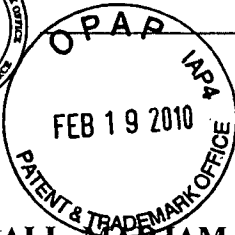
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WALL, MARJAMA & BILINSKI LLP  
4<sup>TH</sup> FLOOR  
101 S. SALINA ST.  
SYRACUSE NY 13202

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FEB 12 2010

In re Patent No. 7,014,392  
Issue Date: March 21, 2006  
Application No. 10/690,913  
Filed: July 10, 2003  
Attorney Docket No. 1179-014

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333; 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

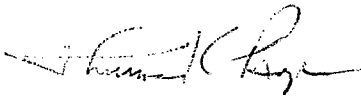
(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

As indicated above, the three and one half year maintenance fee must be properly itemized.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.



Thurman K. Page  
Petitions Examiner  
Office of Petitions